IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

WP(C).No. 22632 of 2007(T)

PETITIONER:

P.A.JOSEPH, PROPRIETOR,
SAKTHAN THAMPURAN AGENCIES, MUNDUPALAM, THRISSUR.

BY ADV. SRI.ARIKKAT VIJAYAN MENON
SRI.HARISANKAR V. MENON

RESPONDENTS:

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1. INTELLIGENCE OFFICER,
SQUAD NO.I, DEPARTMENT OF COMMERCIAL TAXES,
THRISSUR.

2. DEPUTY COMMISSIONER OF COMMERCIAL TAXES,
THRISSUR.

3. DEPUTY COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES, ERNAKULAM.

4. INSPECTING ASST. COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES, THRISSUR.

BY G.P. SRI.C.K.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.22632 of 2007

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Dated this the 24th day of July, 2007.

JUDGMENT

It is seen that Ext.P2 order was issued based on an inspection conducted on 23.11.2002. It is stated in Ext.P2 order that notice was served on 1.1.2007. This is denied by the petitioner. In any case there is no finding as to what exactly is the tax evaded or sought to be evaded by the petitioner and if so, on what product and at what rate. All what is stated in Ext.P2 is that during inspection variation in stock of various items was noticed. It is the duty of the officer to evaluate the effect of such variation with reference to the provisions of the taxation laws and to see what was the tax payable and what is the estimated tax evaded by the petitioner. Even though penalty amount is fixed, the basis of the same is not given in Ext.P2 order. In the circumstances and since the order is obviously issued after inordinate delay, the officer is directed to issue specific notice pointing out the turnover and tax sought to be evaded by the petitioner, give an opportunity to the petitioner and pass appropriate orders within six weeks from today. The petitioner will produce copy of this judgment before the first respondent for compliance. Ext.P2 will be withdrawn by the officer

after fresh orders are issued. However, if petitioner does not produce copy of this judgment and co-operate with the enquiry, the officer can record the same and proceed for recovery under Ext.P2 order.

W.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms